

FCC MAIL SECTION

Federal Communications Commission

DA 98-233

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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	CC Docket No. 97-250
Tariffs Implementing Access Charge Reform)	
)	
NYNEX Telephone Companies)	Transmittal No. 481
Revisions to Tariff F.C.C. No. 1)	

MEMORANDUM OPINION AND ORDER

Adopted: February 11, 1998

Released: February 11, 1998

By the Acting Chief, Competitive Pricing Division, Common Carrier Bureau:

I. INTRODUCTION

1. On December 30, 1997, the Common Carrier Bureau (Bureau) initiated an investigation into the provisions contained in incumbent local exchange carrier (LEC) access charge reform tariffs.¹ On January 28, 1998, the Bureau designated the specific issues for investigation in this proceeding in a separate order.² On January 29, 1998, NYNEX Telephone Companies filed Transmittal No. 481 to revise Tariff F.C.C. No. 1, increasing their price cap indices and revising rates to reverse the effect of the one-time true up filed under Transmittal No. 447. We have no record of the receipt of any petitions filed against this tariff transmittal to date.

II. DISCUSSION

2. This transmittal raises issues that were designated for investigation in the *Access Charge Reform Tariffs Designation Order*. Therefore, we suspend this transmittal for one day, following the currently scheduled effective date, and make this transmittal subject to the investigation initiated in the *Access Charge Reform Tariffs Suspension Order*.

3. At the conclusion of the investigation, the rates that are the subject of this suspension order may be subject to the special, two-way adjustment mechanism described in the *Access Charge Reform Tariffs Suspension Order*, for the reasons stated therein.³ We therefore put customers on notice that any revised rates provided in the transmittal suspended for one day by this order are provisional rates. If these provisional rates are found at the conclusion of the investigation initiated by the *Access Charge Reform Tariffs Suspension Order* to be below a just and reasonable level, we may allow carriers prospectively to charge higher rates for some elements to reflect the fact that they were

¹ *Tariffs Implementing Access Charge Reform*, CC Docket No. 97-250, Memorandum Opinion and Order, DA 97-2724 (Com. Car. Bur., rel. Dec. 30, 1997)(*Access Charge Reform Tariffs Suspension Order*).

² *Tariffs Implementing Access Charge Reform*, CC Docket No. 97-250, Order Designating Issues for Investigation and Order on Reconsideration, DA 98-151 (Com. Car. Bur., rel. Jan. 28, 1998)(*Access Charge Reform Tariffs Designation Order*).

³ *Access Charge Reform Tariffs Suspension Order* at §§ 7-8.

charging less than would have been permitted for those elements during the pendency of the investigation. If these provisional rates are found at the conclusion of the investigation initiated by the *Access Charge Reform Tariffs Suspension Order* to be above those permitted by our rules, and thus unreasonably high, we may require the LECs to make refunds to their customers. It is also possible that, in some cases in which the same customer has paid both charges that were found to be too high and charges that were found to be too low, refunds could be offset by amounts allowed for recoupment.

III. EX PARTE REQUIREMENTS

4. This investigation is a permit-but-disclose proceeding and subject to the permit-but-disclose requirements under Section 1.1206(b) of the rules, 47 C.F.R. § 1.1206(b), as revised. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 C.F.R. § 1.1206(b)(2), as revised. Other rules pertaining to oral and written presentations are set forth in Section 1.1206(b), as well.

IV. ORDERING CLAUSES

5. Accordingly, IT IS ORDERED, pursuant to Section 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a), and through the authority delegated pursuant to Sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, that the tariff revisions filed by NYNEX Telephone Companies ARE SUSPENDED for one day from the effective date and an investigation of the referenced tariff transmittal IS INSTITUTED AND CONSOLIDATED in CC Docket No. 97-250.

6. IT IS FURTHER ORDERED that NYNEX Telephone Companies SHALL FILE, within five business days of the release date of this Order, tariff revisions to reflect the one day suspension from the currently scheduled effective date of February 13, 1998. NYNEX Telephone Companies should cite DA 98-233 as the authority for this filing.

7. IT IS FURTHER ORDERED, pursuant to Sections 4(i) and 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 204(a), and through the authority delegated pursuant to Sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, that NYNEX Telephone Companies SHALL KEEP ACCURATE ACCOUNT of all amounts received by reason of the provisions that are the subject of this investigation.

FEDERAL COMMUNICATIONS COMMISSION

Jane E. Jackson
Acting Chief, Competitive Pricing Division
Common Carrier Bureau